In the Supreme Court of the United States.

OCTOBER TERM, 1904.

THE UNITED STATES OF AMERICA, appellant, *v.* THE DETROIT TIMBER AND LUMBER Company, et al. } No. 389.

ON APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

MOTION TO CONTINUE INJUNCTION.

The Solicitor-General, on behalf of the United States of America, respectfully moves the court to continue the injunction now in force against the appellees pending the hearing and final determination of said case in this court, said injunction having been granted by the United States circuit court for the western district of Arkansas and upon appeal to the United States circuit court of appeals for the eighth circuit continued in force pending the appeal in said circuit court of appeals, and again continued by said circuit court of appeals upon appeal to this court until the third Monday of October (17th), 1904. The ground upon which this

motion is based is that irreparable injury and damage may result to the appellant if said injunction is not kept in force until the final determination of said appeal in this court.

STATEMENT OF CASE.

The United States of America filed its bill in the circuit court for the western district of Arkansas on April 7, 1902, naming as defendants the Martin-Alexander Lumber Company, the Detroit Timber and Lumber Company, John H. Scott, and others, as defendants, to vacate, on the ground of fraud, patents to certain lands entered under the act of June 3, 1878, commonly known as the Stone and Timber Act, which lands were conveyed by the entrymen to the Martin-Alexander Lumber Company (afterwards the Detroit Timber and Lumber Company).

The bill also prayed that damages in the sum of $60,000, representing the amount of timber taken from said lands by the entrymen and their grantees, be awarded the complainant, and that the Detroit Timber and Lumber Company be enjoined from taking timber from the lands in controversy pending the suit. Such an injunction was granted.

Upon final hearing the circuit court dismissed the bill of the complainant, but the injunction was continued by said court pending an appeal to the United States circuit court of appeals for the eighth circuit. The appeal to the last-named court was perfected and the injunction continued in force by said court until a final hearing of such appeal was therein had.

Said circuit court of appeals affirmed in part and reversed in part the decision of the circuit court, and from that portion of its decision affirming the circuit court the United States duly appealed to this court, and pending such appeal the circuit court of appeals, on the same day upon which the appeal was allowed, continued said injunction until the third Monday of October, 1904.

This court is now asked to continue such injunction pending its decision and the final determination of the case.

Notice of this motion has been given to defendants' counsel.

HENRY M. HOYT,
Solicitor-General.

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